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FISCAL IMPACT STATEMENT

LS 6670

BILL NUMBER: HB 1153

NOTE PREPARED: Jan 25, 2008

BILL AMENDED: Jan 24, 2007

SUBJECT: Gaming in Bars.

FIRST AUTHOR: Rep. Tyler

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Gaming in Bars* - The bill authorizes raffles, pull tabs, punchboards, and tip boards in establishments licensed to sell alcoholic beverages to customers for consumption on the licensed premises. It provides that the authorized sale of pull tabs, punchboards, and tip boards is exempt from the State Gross Retail Tax. It also specifies that the pull tab provisions do not apply to slot machine wagering at racetracks.

The bill provides that fees paid by a retailer must be distributed to the county in which the retailer is located for allocation among the county and the cities, towns, and school corporations located in the county. It provides that excise taxes remitted by a distributor or manufacturer must be distributed to the home county of the retailer purchasing the pull tabs, punchboards, or tip boards. It requires the taxes to be allocated among the county and the cities, towns, and school corporations located in the county. It also provides that the allocations may be used for any lawful purpose.

Liability Insurance Requirement - The bill requires a person who holds a retailers license or permit to sell alcoholic beverages for consumption on the premises to procure and maintain a policy of liability insurance after December 31, 2008, to cover the person's liability for damages arising out of the person's sale of alcoholic beverages. It provides a procedure for a person who holds a license or permit to obtain a certificate of self-insurance from the Department of Insurance as an alternative to procuring insurance. It requires the Commissioner of the Department of Insurance to adopt rules to establish minimum amounts of insurance coverage and self-insurance. It also makes an appropriation.

Effective Date: (Amended) Upon passage; July 1, 2008.

Explanation of State Expenditures: (Revised) *Gaming in Bars* - Under the bill, the Indiana Gaming Commission (IGC) is given the power and duty to administer, regulate, and enforce the operation of Type II gambling games in alcoholic beverage retail establishments. The bill defines a Type II gambling game as a pull tab (ticket or card), punchboard, or tip board game. The bill creates three licenses: (1) a retailer's license to conduct Type II gambling games; (2) a distributor's license to distribute the Type II gambling games in Indiana; and (3) a manufacturer's license to manufacture Type II gambling games in Indiana. Under the bill, investigative costs for a Type II gambling retailer's license is to be paid by the license applicant. To obtain a license to be a distributor or manufacturer of Type II gambling games, an applicant must already be licensed by the IGC as a distributor or manufacturer of pull tabs, punchboards, and tip boards for purposes of charity gaming in Indiana. The bill also requires the Indiana State Police, the Alcohol and Tobacco Commission, and the Indiana Professional Licensing Agency to assist in investigative duties of the IGC, if assistance is requested by the Executive Director of the IGC.

The bill annually appropriates sufficient revenue from license fees and excise taxes on pull tab, punchboard, and tip boards from the Type II Gaming Enforcement Fund to the IGC to cover the cost of administering Type II gambling at alcoholic beverage retail establishments.

Liability Insurance Requirement - Under the bill, the Indiana Department of Insurance (DOI) would have to establish a self-insurance certification program for. The bill provides the certificate of self-insurance from the DOI as an alternative to the liability insurance requirement for license and permit holders established by the bill. The bill requires persons holding a retailer's license or permit to sell alcoholic beverages for on-premises consumption to procure and, after December 31, 2008, continuously maintain a policy of liability insurance for damages arising from alcohol sales. The bill also requires the DOI to establish minimum amounts of insurance coverage or self-insurance for license and permit holders.

The potential administrative impact on the DOI from the self-insurance certification program is unknown and would depend on the number of license and permit holders choosing to self-insure in lieu of obtaining a liability insurance policy. Since the insurance requirement would go into effect upon enactment of the legislation, the administrative impact would begin no later than FY 2009. The bill does not provide additional funding to the DOI to administer the self-insurance certification program. The January 27, 2008, state vacant position report indicates that the DOI has 13 vacant full-time positions.

Explanation of State Revenues: (Revised) *Summary* - The bill would generate revenue from Type II Gambling License fees, Type II Gambling Game Excise Taxes, and civil penalties. Type II gambling games are pull tab (tickets or cards), punchboard, and tip board games. The revenue from license fees, excise taxes, and civil penalties is to be deposited in the Type II Gaming Enforcement Fund. The bill provides that money in the Fund is annually appropriated to the IGC to cover the cost of administering Type II gambling. The bill also requires that money remaining in the Fund after the IGC appropriation is to be allocated to counties for use by local units. The amount of revenue that may be generated by retailer license fees and the excise tax is indeterminable. The license fees on distributors and manufacturers could potentially generate between \$70,000 and \$80,000 annually.

Type II Gambling License Fees - The bill creates a retailer's license to conduct Type II gambling games; and licenses to distribute or to manufacture Type II gambling games in Indiana. Type II gambling games are pull tab (tickets or cards), punchboard, and tip board games.

The retailer's license could be obtained by an alcoholic beverage retail permit and club permit holder, including beer retailers, wine retailers, liquor retailers, restaurants, and hotels. The bill prohibits horse

racetracks, OTBs, riverboat casinos, and organizations qualified to conduct charity gaming. The license fee for an initial retailer's license is \$250, with annual renewal license fee ranging from \$50 to \$26,000 depending on the adjusted gross gaming revenue generated by a retailer in the preceding year. (See Background Information section below for discussion of retailer license renewal fees.) The number of alcoholic beverage retail permit holders that could potentially apply for a retailer's license is indeterminable. There may be as many as 5,600 permit holders that would obtain a license to conduct Type II gaming under this bill. The annual total license fees that could potentially be generated from retailer's licensees is indeterminable and depends on the number of retailers that obtain licenses and the adjusted gross gaming revenue that licensees generate. (Note: There are currently about 6,300 qualified alcoholic beverage permit holders, excluding permit holders that are chain restaurants, chain hotels, or golf course establishments. Based on FY 2006 charity gaming licensee totals, there are also about 700 social and fraternal organizations that hold annual charity gaming licenses to conduct bingo and sell pull tabs, punchboards, and tip boards. The potential Type II gaming licensee totals above assume that these social and fraternal organizations also hold alcoholic beverage retail permits.)

The distributor's license and manufacturer's license could be obtained by a person licensed as a distributor or manufacturer for purposes of charity gaming in Indiana. The annual license fee for a distributor is \$1,000, and for a manufacturer is \$1,500. Based on FY 2006 licensing of charity gaming product distributors and manufacturers, these license fees could potentially generate about \$77,000 annually. In FY 2006 there were 53 licensed distributors and 16 licensed manufacturers of charity gaming products.

The initial retailer's license fee is \$25. The annual renewal license fee for a retailer is determined on the fee schedule below and depends on the adjusted gross revenue (AGR) generated by a retailer from Type II gambling games in the preceding year. The bill provides that a retailer's annual AGR is equal to the retailer's annual gross revenue from Type II gambling games during the year minus: (1) the total value of game prizes awarded during the year; (2) the sum of the purchase prices of games dispensed during the year; and (3) the total license fees paid by the retailer during the year. The renewal fee schedule is specified in the table below.

Annual AGR equals at least:	Annual AGR is less than:	Proposed Fee
\$0	\$15,000	\$50
15,000	25,000	100
25,000	50,000	300
50,000	75,000	400
75,000	100,000	700
100,000	150,000	1,000
150,000	200,000	1,500
200,000	250,000	1,800
250,000	300,000	2,500
300,000	400,000	3,250
400,000	500,000	5,000
500,000	750,000	6,750
750,000	1,000,000	9,000
1,000,000	1,250,000	11,000
1,250,000	1,500,000	13,000
1,500,000	1,750,000	15,000
1,750,000	2,000,000	17,000
2,000,000	2,250,000	19,000
2,250,000	2,500,000	21,000
2,500,000	3,000,000	24,000
3,000,000		26,000

Type II Gambling Game Excise Tax - The excise tax is equal to 10% of the price paid by a retailer for Type II gambling games. The revenue that the excise tax would generate is indeterminable and depends on the number of alcoholic beverage retail establishments that obtain Type II gambling licenses and their sales volume.

Type II Gaming Enforcement Fund - The bill requires revenues from license fees, civil penalties, and excise taxes to be deposited in the Fund. Money in the Fund does not revert to the state General Fund. The bill provides that money in the Fund is annually appropriated to the IGC to cover the cost of administering Type II gambling. The remaining money in the Fund is allocated to counties for distribution to counties, cities, towns, and school corporations. (See Explanation of Local Revenue for discussion of local distribution formula.)

Other Revenue - The bill could potentially increase sales of pull tab, punchboard, and tip board games,

increasing income tax revenue from any manufacturers and distributors located in Indiana. Conducting these games also could increase the income of the retailers, resulting in increased income tax revenue. Revenue from the Adjusted Gross Income (AGI) Tax is deposited in the state General Fund and the Property Tax Replacement Fund.

If allowing operation of pull tab, punchboard, and tip board games in alcoholic beverage retail establishments increases sales, revenue from the Alcoholic Beverage Excise Tax may increase. Alcoholic Beverage Excise Tax revenue is deposited in the state General Fund, the Post War Construction Fund, the Alcohol and Tobacco Commission's Enforcement and Administration Fund, the Pension Relief Fund, the Addiction Services Fund, and the Wine Grape Market Development Fund.

Penalty Provisions - Class A Misdemeanor: The bill establishes a Class A misdemeanor for: (1) making false statements on an application for a license; (2) operating Type II gambling games in a manner other than required by law; (3) permitting gambling by persons under 21 on Type II gambling games; and (4) accepting wagers on Type II gambling games off the retailer's licensed premises.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$17), public defense administration fee (\$3), court administration fee (\$3), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Civil Penalties: The bill also allows the IGC to levy a civil penalty against a licensee for specified violations of the Type II gambling law. The penalty can't exceed \$1,000 for the first violation; \$2,500 for the second violation; and \$5,000 for each additional violation. Penalties would be deposited in the Type II Gaming Enforcement Fund.

Explanation of Local Expenditures: *Penalty Provisions* - The bill establishes a Class A misdemeanor for specified Type II gambling violations. A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: (Revised) *Summary* - The bill requires money in the Type II Gambling Enforcement Fund remaining after appropriations are made to the IGC to be allocated to counties. Each county would receive the remaining revenue in the Fund that was generated by licensed establishments in the county for distribution to the county, and cities, towns, and school corporations in the county. The amount of revenue that may be generated for the Fund by retailer license fees and the excise tax is indeterminable. The license fees on distributors and manufacturers could potentially generate between \$70,000 and \$80,000 annually.

County Allocation Method - The money allocated to a county from the Type II Gambling Enforcement Fund would be distributed as follows:

(1) Two-thirds of the money allocated to a county would be divided between the county, and cities and towns

in the county, on a per capita basis.

(2) One-third of the money allocated to a county would be divided between the school corporations in the county on a pro rata basis according to student enrollment in each of the school corporations.

Penalty Provisions - The bill establishes a Class A misdemeanor for specified Type II gambling violations. If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Indiana Gaming Commission; Department of Insurance; State Treasurer.

Local Agencies Affected: Cities, towns, counties, and school corporations; trial courts and local law enforcement agencies; county treasurers.

Information Sources: Vicki Stephens, Alcohol and Tobacco Commission, (317) 232-2436; *Charity Gaming Annual Report, FY 2005 and FY 2006*, Indiana Gaming Commission; Indiana Sheriffs' Association; Department of Correction.

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